

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 7. BOARD CHIROPRACTIC EXAMINERS

##### PREAMBLE

- 1. Sections Affected**

R4-7-701	Repeal
R4-7-702	Amend
R4-7-901	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-904(B)(2)

Implementing statutes: A.R.S. §§ 32-921, and 32-924
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 7 A.A.C. 473, January 12, 2001
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Patrice A. Pritzl Executive Director
Address:	5060 North 19th Avenue, Suite 416 Phoenix, Arizona 85015-3210
Telephone:	(602) 255-1444
Fax:	(602) 255-4289
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

R4-7-701 applies to educational requirements to be met by unaccredited colleges in order to have their students considered for license eligibility in Arizona. This rule is archaic and will be repealed. R4-7-902 defines the standards of education, and will be minimally amended to reflect current educational requirements for the practice of chiropractic. R4-7-901 defines unprofessional conduct as it relates to misleading or fraudulent advertising. The amendment will further define the use of certain terms which are, in the opinion of the board, misleading to the public.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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**8. The preliminary summary of the economic, small business, and consumer impact:**

The economic impact is minor. The Board has not received a request from an unaccredited college in at least 10 years. The rule is considered archaic. The amendments to R4-7-702 are minor technical corrections. The amendment to R4-7-901 reflects current substantive policy statements of the board, and is already enforced.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement.**

Name: Patrice A. Pritzl  
Executive Director

Address: 5060 North 19th Avenue, Suite 416  
Phoenix, Arizona 85015-3210

Telephone: (602) 255-1444

Fax: (602) 255-4289

**10. The time, place and nature of the proceedings for adoption, amendment, or repeal of the rule or, if no proceeding is scheduled when, where, or how persons may request an oral proceeding on the proposed rule:**

Written comment will be accepted at the Board office, 5060 N. 19th Ave., #416, Phoenix, AZ 85015 on a business day between the hours of 8:00 a.m. and 5:00 p.m., until 5:00 p.m. on May 20, 2001. An oral proceeding is not scheduled but may be requested.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporation by reference and their location in the rules:**

Not applicable

**13. The full text of the rules as follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

**ARTICLE 7. STANDARDS OF EDUCATION**

Section

R4-7-701. ~~Application for accreditation by board from college not otherwise accredited~~ **Repealed**  
R4-7-702. Standards of education as determined by the board

**ARTICLE 9. UNPROFESSIONAL CONDUCT**

Section

R4-7-901. Advertising of a deceptive and fraudulent nature

**ARTICLE 7. STANDARDS OF EDUCATION**

**R4-7-701. ~~Application for Accreditation by Board from College not Otherwise Accredited~~ Repealed**

~~A school or college of chiropractic which is not accredited by or does not have status with Council on Chiropractic Education or which is not accredited by an accrediting agency recognized the U.S. Department of Education or the Council on Postsecondary Accreditation may qualify its graduates for purposes of the examination for licensure by submitting an application to the Board that demonstrates that the college meets the educational standards established below.~~

**R4-7-702. Standards of education as determined by the Board**

**A. Pre-professional education:**

1. The college of chiropractic shall require ~~by January 1, 1977, that~~ all its students, ~~for admittance purposes,~~ furnish proof of having acquired at least two years (or 60 acceptable semester hours) leading to a baccalaureate degree in the arts and sciences ~~as a condition of admission.~~ This ~~should~~ shall include one year each of chemistry, ~~with not less than 9 semester hours of chemistry with laboratory and at least one course in organic chemistry,~~ and biology with laboratories.
2. ~~Those that have matriculated with the fall enrollment of 1980 shall furnish proof of having credit of a minimum of three courses totaling not less than nine semester hours in chemistry with laboratory, one course of which shall be in organic chemistry in organic or foreign equivalency.~~

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- B.** The objective of the chiropractic college shall be to prepare the chiropractic doctor for the practice of chiropractic. The college shall be familiar with the distinctive characteristics of the chiropractic profession.
- C.** The organization of the college:
1. The college shall be incorporated under the laws of the state of its residence.
  2. The college shall be exempt from taxes due to its educational program and purposes.
  3. Control shall be vested in a board composed of chiropractic doctors and lay persons receiving no financial benefits from the college.
- D.** The administration:
1. There shall be a chief administrative officer. The chief administrative officer shall appoint to assist him a staff of administrative officers conforming to the accepted standards for professional education. These shall include a dean of academic affairs, dean of student affairs and a dean of business affairs.
  2. There shall be a self-study/evaluation committee. This committee shall be composed of faculty, students, administration and other appropriate persons who shall be responsible for a report reflecting the autonomy and integrity of the institution. The report shall provide a factual picture of the various aspects of the educational program to each standard. It should relate the activities of the college with its stated purpose. It should reflect the planning for the future.
  3. The records of the college shall be up to date and open for inspection. These shall include the financial report, clinic records and scholastic records, ~~but shall not to~~ include individual student records without consent.
  4. The college shall issue a catalog or bulletin that is available upon request. The catalog shall include a listing of the members of the faculty, trustees, all officers of the college with their respective credentials; e.g. degree, etc. The catalog shall list the courses that are given, information regarding entrance requirements, discipline, attendance, examinations, grades, procedures and graduation. The fees for tuition, matriculation, laboratory, or any other special fees shall be listed. The catalog or bulletin, which should be published annually, shall include the college calendar. The college shall have an adequate student/teacher ratio, adequate library, adequate laboratories, and a public clinic, providing sufficient clinical expertise to adequately prepare the student for the practice of chiropractic.
- E.** Professional education:
1. The courses of education shall include the following subjects: human anatomy, dissection, physiology, pathology, orthopedics, principles of chiropractic and adjusting, neurology, chemistry including biochemistry, nutrition, hygiene and public health, chiropractic spinal analysis, x-ray, laboratory subjects, ~~bacteriology~~ microbiology, and diagnosis including physical, clinical and differential.
  2. The length of the course: There shall be a resident course of four years of not less than nine months each year, or the equivalent or thirty-six months of continuous study, comprising not less than four thousand sixty-minute class hours of resident study.
- ~~**F.** Guidelines for the colleges with graduates making application to sit the examination:~~  
~~A detailed self study report shall be submitted 120 days before the date of the examination to allow for questions and, if necessary, an on-site visitation by the Board and/or a consultant appointed by the Board.~~
- ~~**G.** Guidelines for the Board:~~
1. ~~A college meeting the equivalency standards of education as determined by the Board shall be granted an "Equivalency Status" only for that period of time, not exceed two years, during which it continues to meet the standards set forth by the Board. "Equivalency Status" may be withdrawn at any time that the Board determines that its standards are no longer being met.~~
  2. ~~The board shall accept those graduate applicants from schools or colleges of chiropractic which have been determined by the board to have achieved and "Equivalency Status." graduate applicants from colleges not having met the board's equivalency standards or from colleges whose "Equivalency Status" has been withdrawn by the board at the time of the applicant's graduation shall not be considered qualified graduates of chiropractic schools or colleges having the equivalency of such standards required by the board.~~

**ARTICLE 9. UNPROFESSIONAL CONDUCT**

**R4-7-901. Advertising of a deceptive and fraudulent nature**

The Board shall ~~cause a license to be investigated, suspended, or revoked for advertising that is likely to deceive or defraud the public, including but not limited to the following examples: investigate allegations of advertising in a false, deceptive or misleading manner and may sanction a license for violation thereof under A.R.S. § 32-924. Advertising of a false, deceptive or misleading manner includes, but is not limited to, the following:~~

1. Advertising painless procedures.
2. Advertising complete health services.
3. Advertising that incorporates the words "specialist" "specializing", or "expert".

## NOTICE OF PROPOSED RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION

##### PREAMBLE

- 1. Sections Affected**

	<b><u>Rulemaking Action</u></b>
R4-39-601	Amend
R4-39-602	Amend
R4-39-603	New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-3003(A)(3)

Implementing statutes: A.R.S. §§ 32-3058, 32-3071, 32-3072, 32-3073, 32-3074, and 32-3075
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

None
- 4. The name and address of agency personnel with whom person may communicate regarding the rulemaking:**

Name:	Teri Candelaria Executive Director
Address:	Board for Private Postsecondary Education 1400 West Washington, Room 260 Phoenix, Arizona 85007
Telephone:	(602) 542-5709
Fax:	(602) 542-1253
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed rulemaking is to make the rules more clear, concise and understandable and to be consistent with required rulemaking language and style.

R4-39-601: The proposed rule revision regarding the Submission of Assessments will ensure consistency with statutory changes and to conform with current Board policy and procedures.

R4-39-602: The proposed rule revision regarding Claims against the Student Tuition Recovery Fund is to incorporate the Board's Substantive Policy #3.

R4-39-603: The proposed new rule is to conform to current Board policy and procedures in processing student record requests and to establish a prescribe fee for student record requests.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact statement:**

Current licensees of the Board will bear the cost of assessments to meet the "cap" of the Student Tuition Recovery Fund. Persons requesting their student records will bear the cost of the student record request fee. The Student Records Request Fee will defer some of the storage and retrieval costs charged by the Arizona Department of Library, Archives and Public Records, Records Management Center.

The proposed rulemaking will make the rules more clear, concise and understandable. The Board and the institutions subject to licensure by the Board will benefit from this change.

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**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:**

Name: Teri Candelaria  
Executive Director

Address: Board for Private Postsecondary Education  
1400 West Washington Street, Room 260  
Phoenix, Arizona 85007

Telephone: (602) 542-5709

Fax: (602) 542-1253

**10. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No oral proceedings are scheduled. The Board will schedule an oral proceeding on the proposed rulemaking if a written request for the oral proceeding is submitted to the Board by at least 5 persons. Written comments on the proposed rulemaking or the preliminary economic, small business, and consumer impact statement may be submitted to the person listed above no later than 5:00 p.m., June 8, 2001.

**11. Any other matter prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

Not applicable

**13. The text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION**

**ARTICLE 6. STUDENT TUITION RECOVERY FUND**

Section

R4-39-601. Submission of Assessments  
R4-39-602. Claims  
R4-39-603. Student Records

**ARTICLE 6. STUDENT TUITION RECOVERY FUND**

**R4-39-601. Submission of Assessments**

- A.** Prior to June 30 of each year, the Board shall notify all institutions required to pay assessed fees of the fee amount, the submission deadline, and the penalties for failure to pay the fee. The notice shall be sent by certified mail in a sealed envelope with postage prepaid and addressed to the institution's latest address of record in the Board's office.
- B.** The assessed fee shall be submitted to the Board no later than 60 days following June 30 of the year.
- C.** For institutions seeking regular or provisional license renewal during the fiscal year then ended the assessed fees shall be based on the number of newly enrolled students for the 12 month period identified on the license renewal application.
- D.** For institutions newly licensed during the fiscal year then ended, the assessed fees shall be based on the number of newly enrolled students enrolled during that fiscal year.
- E.** If on June 30 of any year the fund balance exceeds \$300,000, only persons or institutions that have been issued an original regular license, a conditional license, or a provisional license shall pay the assessed fees for that fiscal year. Fees shall be assessed pursuant to R4-39-601(B) or (C).
- F.** If the Board determines that there is cause to question the amount of the fee or the manner in which the fee payment was made, the Board may set the matter on the agenda for a public meeting. The Board may require additional information and material and the personal appearance of representatives of the institution before the Board.
- A.** Before July 30 of each year, the Board shall notify in writing an institution specified in A.R.S. § 32-3072(B) if an assessment as defined in A.R.S. § 32-3071(1) is due. The notice shall be sent by certified mail and shall contain the amount of the assessment, the date the payment of the assessment is due, and the penalty for failure to pay the assessment. As authorized by A.R.S. § 32-3072(B), assessed fees shall be determined as follows:

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1. The assessment for an institution licensed under A.R.S. Title 32, Chapter 30 seeking a regular or provisional license renewal shall be based on the number of new students enrolled for the 12-month period identified on the license renewal application required under R4-39-108 or R4-39-107(D).
2. The assessment for an institution newly licensed under A.R.S. Title 32, Chapter 30 shall be based on the number of new students enrolled during the fiscal year ending June 30.
3. The assessment for a cosmetology school as defined in A.R.S. § 32-3071(3) or a professional driver training school as defined in A.R.S. § 32-3071(10) shall be based on the number of new students enrolled during the fiscal year ending June 30.
- B.** On June 30 of each year, the Board shall determine the amount of funds in the Student Tuition Recovery Fund ("Fund"). If the Fund balance exceeds \$500,000, only an institution that is newly licensed or is provisionally licensed during or after that fiscal year then ended shall be assessed a fee for that fiscal year. The assessed fee shall be determined as required by R4-39-601(A).
- C.** If the Board or an institution disputes the amount of the assessment for an institution, the Board shall set the matter on the agenda for a public meeting. The Board may require that the institution whose assessment is being disputed:
  1. Submit additional information or documents to clarify incomplete or ambiguous information or documents; and
  2. Have a representative present to address the Board at the public meeting.

**R4-39-602. Claims**

- ~~**A.** The Board shall investigate written complaints for claims against the fund pursuant to R4-39-502. If at a public meeting the Board finds the complaint and claim to be valid, it shall determine the amount of the claim to be paid and the party to whom the claim shall be paid.~~
- A.** The Board shall investigate a claim against the Fund and find:
1. A claim is valid if:
    - a. Student educational records confirm that the claim is filed by a person injured as defined in A.R.S. § 32-3071(1); and
    - b. The claim is filed within 1 year after the closed institution has ceased operation;
  2. A claim is invalid:
    - a. As specified in A.R.S. § 32-3075(B); or
    - b. Because a student participates in a "Teach-Out." "Teach-Out" as used in this subsection means "a student from a closed institution voluntarily transfers to another institution where the student is provided all of the instruction for which the student originally contracted, but did not receive from the closed institution." Nothing in this subsection precludes a student from a closed institution from voluntarily transferring to a "Teach-Out" institution and receiving additional training for an additional cost.
- B.** If the Board finds a claim to be valid, the Board shall determine the amount and the party to be paid as follows:
1. The claim payment shall include only the actual amount of tuition and fees paid in cash or with a student loan. No claim payment shall be made for a grant, scholarship, or debt owed to another state, local, or federal governmental agency.
  2. A claim payment shall be made first to the student loan holder, and then to the student or the parent financially liable for the repayment of the loan.
- ~~**BC.** The Board shall pay the claim in the amount determined and to the party named within 120 days of the date of the public meeting at which the claim was considered.~~
- ~~**C.** A claimant against the Student Tuition Recovery Fund who is not satisfied by the Board's decision may submit a motion for hearing pursuant to A.R.S. § 32-3054 and R4-39-501.~~
- D.** A motion for hearing as allowed under A.R.S. Title 41, Chapter 6, Article 10 may be filed by a claimant not satisfied with the Board's decision.

**R4-39-603. Student Records**

- A.** The Board shall maintain the student educational records of a closed institution licensed under A.R.S. Title 32, Chapter 30 for a period of 25 years. Student educational records are defined in A.A.C. R4-39-401.
- B.** The Board shall provide student educational records to a student who attended a closed institution licensed under A.R.S. Title 32, Chapter 30, if the student submits the following:
1. Name and social security number of the student requesting the record;
  2. Name of the closed institution;
  3. Student name used while attending the closed institution;
  4. Identification of the student educational record or records being requested;
  5. Name and address of the party to whom the student educational record is to be mailed;
  6. Student signature or copy of a signed student record release form authorizing a third party to obtain the student educational record; and
  7. \$10.00 processing fee and 25 cent per page copying charge.



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**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Interested persons may contact the Rules Analyst listed in paragraph #4 regarding the economic, small business, and consumer impact statement.

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No public hearing is planned for this rulemaking. Oral comments and oral requests for a public hearing may be made Monday through Friday, 8:00 a.m. to 5:00 p.m., at the phone number in paragraph #9. Written comments may also be sent to address in paragraph #9. All comments must be received by 4:30 p.m. on Friday, June 8, 2001, at which time the public record will close.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

49 CFR 571.213 (October 1, 2000) is incorporated by reference in the one and only section in this rulemaking.

**13. The full text of the rules follows:**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLE DIVISION**

**ARTICLE 7. MISCELLANEOUS RULES**

Section

R17-4-704. ~~Child-restraint systems in motor vehicles~~ Child-restraint Systems in Motor Vehicles

**ARTICLE 7. MISCELLANEOUS RULES**

**R17-4-704. ~~Child-restraint systems in motor vehicles~~ Child-restraint Systems in Motor Vehicles**

~~Child-restraint systems shall be constructed to specifications contained in~~ comply with 49 CFR 571.213. Federal Motor Vehicle Safety Standard number 213. ~~49 CFR 571.213, revised October 1, 2000, is incorporated by reference and on file with the Arizona Department of Transportation and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~ Safety Standard 213 requires the following information be provided with the restraint system:

- ~~1. On a permanent label attached to the restraint, the statement "This child-restraint system conforms to all applicable federal motor vehicle safety standards".~~
- ~~2. On a permanent label, attached to the restraint, the manufacturers recommendations for the minimum and/or maximum weight and height of the children who can safely occupy the system.~~
- ~~3. Printed installation instructions with step-by-step procedures, including diagrams for installing the system in motor vehicles, positioning the child in the system, and adjusting the system to fit the child. Each restraint system shall have a location on the restraint for storing the manufacturers installation instructions.~~

~~A copy of Federal Motor Vehicle Safety Standard 213 is on file with the Office of the Secretary of State.~~